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SECTION

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103.010: Agreements with Holders of Personal Data

- (A) The department shall not permit any person or entity to hold personal data as part of or as a result of performing, on behalf of such agency, a governmental or public function or purpose, unless:
  - (1) the department has informed such person or entity that it is a holder of personal data, as defined by section 101.040, and subject to the provisions of G.L. c. 66A, § 2; and
  - (2) such person or entity has agreed to conform to the obligations of the department set out in Chapters 103, 105, 106, sections 104.010 through 104.050 of Chapter 104 and sections 107.030 through 107.050 of Chapter 107 of these regulations.
- (B) Any contract or agreement between the department and a person or entity under which such person or entity will hold personal data as part of or as a result of performing a governmental or public function or purpose shall, by its terms, obligate such person or entity to conform to the obligations of the department set out in Chapters 103, 105, 106, sections 104.010 through 104.050 of Chapter 104 and sections 107.030 through 107.050 of Chapter 107 of these regulations and shall provide further that failure to so conform to such obligations shall be grounds for terminating such contract or agreement.
- (C) The department may, without the consent of the data subject, have access to personal data held pursuant to its contract or agreement with a person or entity under which such person or entity will hold personal data as part of or as a result of performing a governmental or public function or purpose; provided, that such contract or agreement shall provide for such access on behalf of the Department.

103.020: Personnel Training

The department shall periodically inform all of its employees who have responsibilities or functions for the design, development, operation, or maintenance of a personal data system or the use of personal data therein, of the provisions of these regulations and of the civil remedies described in G.L. c. 214, § 3B, available to individuals whose rights under G.L. c. 66A are allegedly violated, and shall use its best efforts to assure that such employees understand and comply with these regulations.

103.030: Physical Security

The department shall take all reasonable steps for the protection of data from physical damage or unauthorized removal, including procedures, where feasible and appropriate, providing for:

- (A) adequate fire detection and extinguishing systems;

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- (B) protection against water and smoke damage;
- (C) water tight facilities;
- (D) alarm systems, safes and locked files, window bars, security guards or any other devices reasonably expected to prevent loss through larceny or other means of unauthorized removal for manually held data, including files, tapes, cards and like materials; and
- (E) passwords, keys, badges, access logs, or other methods reasonably expected to prevent loss through larceny or other means of unauthorized removal for mechanically or electronically held data.

103.040: Duplicate Files

- (A) The department shall ensure that the number of duplicate files of personal data are maintained at an absolute minimum.
- (B) The department shall ensure that all duplicate file systems are maintained consistent with the requirement of these regulations.

103.050: Notice and Annual Report to the Secretary of State

The department shall, by September 1, 1976 and annually thereafter, and upon the subsequent establishment, termination, or change in character of a personal data system file a report with the Secretary of State regarding each personal data system it operates. Such report shall be maintained by the department as a public record. Such report shall include, but not necessarily be limited to the following information:

- (A) the name of the system and the title and address of the person in charge of it;
- (B) the nature and purpose of the system;
- (C) the identification of the types, categories, uses and sources of data held in the system;
- (D) the approximate number of individuals about whom data are held in the system;
- (E) whether and to what extent the data are held in computerized form;
- (F) a description of each person and organization having access to the system;
- (G) a description of the policies and practices of the agency with regard to data maintenance, retention, and disposal;

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- (H) a description of the manner in which any individual who believes that data about him are held in the system, may have a search made and, if such data is so held, may inspect, copy, and object to it as provided in these regulations; and
- (I) a description of other actions taken to comply with these regulations and Massachusetts Law, particularly G.L. c. 66A.

103.060:: Audit Trail

The department shall maintain, as an audit trail, records which show any access to or use of personal data which the department holds by persons or organizations outside of the department. The department need not record in the audit trail any such access or use by its employees acting within their official duties. In the case of personal data systems in which personal data is stored, in whole or in part, in a computer or in electronically controlled or accessible files, the audit trail shall include a complete and accurate record of every disclosure of personal data, including the identity of all persons and organizations to whom such access or use has been granted and their declared intentions regarding the use of such personal data. The data subject need not declare her/his intentions regarding the use of such personal data. In the case of all other personal data systems, the audit trail shall include such information to the maximum extent feasible. The audit trail shall be deemed part of the data to which it relates for all purpose under these regulations.

103.070: Limitation on Collection of Personal Data

The department shall collect and maintain only those personal data which are reasonably necessary for the performance of its statutory functions.

103.080: Destruction of Obsolete Personal Data

Pursuant to G.L. c. 30, § 42, the department shall develop and implement, with the approval of the Records Conservation Board, a plan for the destruction of obsolete data. As part of such implementation, each agency shall periodically review all personal data systems for the purpose of destroying obsolete personal data.